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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

8 ELDRICK E. ROBISON, No. C-13-2443 EMC  
9 Plaintiff,  
10 v.  
11 CITY OF SANTA ROSA, *et al.*, **ORDER RE BRIEF  
FOR DEFENDANT  
STAY; AND DENY  
MOTIONS TO STRIKE**  
12 Defendants. **(Docket Nos. 14, 25,**

**ORDER RE BRIEFING SCHEDULE  
FOR DEFENDANTS' MOTION TO  
STAY; AND DENYING PLAINTIFF'S  
MOTIONS TO STRIKE**

**(Docket Nos. 14, 25, 26)**

15 Plaintiff filed the instant suit on March 30, 2013, bringing two causes of action in connection  
16 with a dispute over the ownership of a property located at 1070 S. Wright Road in Santa Rosa,  
17 California. Docket No. 1. Currently pending before the Court is Defendants' motion requesting that  
18 the Court stay the instant matter for 60 days or until the court issues an order directing Plaintiff to  
19 show cause why this matter should not be dismissed. Docket No. 14. Defendants note that Plaintiff  
20 had been declared a vexatious litigant in California Superior Court, and argue that the instant suit is  
21 frivolous. In particular, Defendants argue that Plaintiff has no interest in the subject property  
22 because the individual who allegedly deeded him the property did not own it at any relevant time. In  
23 support of its motion, Defendants attach various documents documenting the chain of title for the  
24 subject property. Docket No. 16.

25 As Defendants' motion attaches evidence outside the pleadings and argues that Plaintiff's  
26 case cannot succeed on the merits, this Court treats the motion as a motion for summary judgment  
27 pursuant to Fed. R. Civ. P. 56. *Cf.* Fed. R. Civ. P. 12(d) (providing that a court may construe a Rule  
28 12 motion as a motion for summary judgment when it raises matters outside the pleadings).

1        Accordingly, the Court **VACATES** the hearing currently set for August 29, 2013 and sets the  
2 following briefing schedule:

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- 4        1. By no later than August 27, 2013, Defendants may submit any additional evidence in  
5 support of the motion for summary judgment, as well as any additional briefing not to  
6 exceed five pages.
- 7        2. By no later than September 10, 2013, Plaintiff shall file his opposition to the motion  
8 for summary judgment, along with any evidence he wishes the Court to consider,  
9 consistent with Fed. R. Civ. P. 56.
- 10      3. Defendants may file any reply by no later than September 17, 2013.
- 11      4. The motion for summary judgment will be heard at 1:30 p.m. on Thursday, October  
12      3, 2013.

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14      Plaintiff is advised that summary judgment may be granted “against a party who fails to  
15 make a showing sufficient to establish the existence of an element essential to that party’s case, and  
16 on which that party will bear the burden of proof at trial . . . since a complete failure of proof  
17 concerning an essential element of the nonmoving party’s case necessarily renders all other facts  
18 immaterial.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 322–23 (1986); *see also Anderson v. Liberty*  
19 *Lobby, Inc.*, 477 U.S. 242, 248 (1986) (a fact is material if it might affect the outcome of the suit  
20 under governing law, and a dispute about a material fact is genuine “if the evidence is such that a  
21 reasonable jury could return a verdict for the nonmoving party.”). Thus, while Defendants will bear  
22 the initial burden of identifying those portions of the record which demonstrate the absence of a  
23 genuine issue of material fact, should they do so, the burden then shifts to Plaintiff to introduce  
24 evidence indicating that there is a genuine issue for trial. *Celotex*, 477 U.S. at 324 (citations  
25 omitted.).

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27      Plaintiff has also filed two motions to strike Defendant’s motion to stay, arguing that the stay  
28 and supporting documentation constitute scandalous material irrelevant to the merits of this case.  
Docket Nos. 25, 26. In light of the above ruling, Plaintiff’s motions are **DENIED**.

1 For Plaintiff's benefit, the Court directs his attention to the Handbook for Pro Se Litigants,  
2 which is available along with further information for the parties on the Court's website located at  
3 <http://cand.uscourts.gov/proselitigants>. Plaintiff may also contact the Legal Help Center, 450  
4 Golden Gate Avenue, 15th Floor, Room 2796, Telephone No. (415) 782-8982, for free legal advice  
5 regarding his claims.

6 This order disposes of Docket Nos. 25 and 26.

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8 IT IS SO ORDERED.

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10 Dated: August 20, 2013

  
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12 EDWARD M. CHEN  
13 United States District Judge